

Message Text

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 AID-05 CEA-01 CIAE-00 COME-00
EB-07 EA-07 FRB-03 INR-07 NEA-10 NSAE-00 USIA-06
OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 AGRE-00
OMB-01 STR-04 XMB-02 L-03 H-01 SS-15 NSC-05 OIC-02
/116 W

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R 201907Z JAN 77
FM USMISSION OECD PARIS
TO SECSTATE WASH DC 5015
INFO ALL OECD CAPITALS 0669
USMISSION EC BRUSSELS
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PASS TREASURY FOR WOODWORTH AND KINGSON AND IRS FOR
WOLFE (CP)

E.O. 11652: N/A
TAGS: EFIN, OECD, ETRD
SUBJECT: JANUARY 18-19 MEETING OF COMMITTEE ON FISCAL
AFFAIRS

REF: (A) CFA/A(76)2, (B) OECD PARIS 35691

1. SUMMARY. ABBREVIATED SESSION OF COMMITTEE ON FISCAL
AFFAIRS (CFA) SERVED MAINLY TO GIVE FORMAL APPROVAL TO
REPORTS/WORK PROGRAM OF EXISTING WORKING PARTIES,
PARTICULARLY TO REVISED MODEL DOUBLE TAXATION CONVENTION
AND RELATED DOCUMENTS, AND TO ESTABLISH NEW WORKING
PARTY EIGHT ON TAX AVOIDANCE AND EVASION. SUBSTANTIVE
DISCUSSIONS IN PLENARY WERE LIMITED TO: (A) FUTURE
MEETINGS OF TAX INSPECTORS; (B) GATT PANEL REPORTS ON
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TAX PRACTICES OF BELGIUM, FRANCE, NETHERLANDS, AND US;
AND (C) FUTURE UNESCO MEETINGS OF TAX EXPERTS ON COPY-
RIGHTS. END SUMMARY.

2. CFA MET AFTERNOONS OF JANUARY 18 AND JANUARY 19
ONLY, WITH MORNING OF 19TH DEVOTED TO EFFORT BY WP1 TO
REDUCE NUMBER OF RESERVATIONS TO MODEL CONVENTION.

CHAIRMAN (MRS. SMALLWOOD, UK) AND REST OF BUREAU WERE RE-ELECTED.

3. CFA HEARD REPORT BY CHAIRMAN OF WP1 (WIDMER, SWITZERLAND) AND APPROVED RESULTS OF GROUP'S LENGTHY EFFORTS TO REVISE MODEL DOUBLE TAXATION CONVENTION WHICH INCLUDE DRAFT REPORT BY CFA TO OECD COUNCIL, REVISED ARTICLES, COMMENTARY ON ARTICLES AND RESERVATIONS TO THEM. HOWEVER, WP1 WAS REQUESTED TO MAKE FURTHER EFFORT TO REDUCE AND CONSOLIDATE RESERVATIONS AND OBSERVATIONS. AM SESSION JANUARY 19 PRODUCED SOME WITHDRAWALS AND AMENDMENTS, BUT RESULTS WILL NOT BE AVAILABLE IN WRITING FOR SEVERAL DAYS. CONFIRMATION BY NATIONAL REPS AND ANY EDITING CHANGES WILL HAVE TO BE COMMUNICATED BEFORE PACKAGE CAN BE SUBMITTED TO COUNCIL AND PUBLISHED (HOPEFULLY BY LATE SPRING). CFA AGREED TO REDUCED-PACE FUTURE WORK PROGRAM OF WP1 ON (A) UPDATING 1966 DRAFT CONVENTION ON ESTATES AND INHERITANCES; (B) DRAFT CONVENTION ON RECIPROCAL ADMINISTRATIVE ASSISTANCE; AND (C) CONTINUED WORK ON ABUSE OF TAX CONVENTIONS. COMMITTEE ALSO AGREED TO RECOMMEND DERESTRICTION OF REPORT ANALYZING EXISTING DOUBLE TAXATION CONVENTIONS.

4. CFA HEARD ORAL REPORTS BY CHAIRMEN OF WORKING PARTIES TWO (SOCIAL ASPECTS AND STATISTICS), SIX (TAXATION OF MNE'S) AND SEVEN (TAXATION AND ENERGY), AND APPROVED PROPOSED WORK PROGRAMS. WP6 HAS COMPLETED DRAFT REPORT ON TRANSFER PRICING WITH RESPECT TO PATENTS AND KNOW-HOW LIMITED OFFICIAL USE

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AND WILL TAKE UP TOPIC OF SERVICES IN APRIL AND THAT OF GOODS LATER THIS YEAR. WP7 PLANS TO COMPLETE ITS WORK THIS YEAR.

5. AVOIDANCE AND EVASION. CFA AGREED TO ESTABLISH NEW WORKING PARTY EIGHT ON TAX AVOIDANCE AND EVASION (SEE REF B), AND IT APPOINTED WESTERBURGEN (NETHERLANDS) AS CHAIRMAN. COMMITTEE AGREED TO CLARIFY MANDATE TO MAKE EXPLICIT THAT WP IS TO LOOK AT AVOIDANCE AS WELL AS EVASION AND INSTRUCTED WP TO CONCENTRATE ON DIRECT TAXES FOR THE TIME BEING. IT WAS NOTED THAT RELATED WORK ON ABUSES OF TAX CONVENTIONS AND ON TRANSFER PRICING WOULD REMAIN IN WP1 AND WP6, RESPECTIVELY, BUT THAT WP8 WOULD ASSUME WORK ON TAX HAVENS. CFA AGREED ON UTILITY OF EXPERIMENTAL MEETING OF TAX INSPECTORS HELD LAST SEPTEMBER AND DECIDED TO LEAVE TO WP8 QUESTIONS OF TIMING OF NEXT MEETING (E.G., THIRD WEEK OF SEPTEMBER OF THIS YEAR), AGENDA AND WORK METHODS, AND DISSEMINATION OF CONCLUSIONS. COMMITTEE AGREED THAT WP8 WOULD

INVESTIGATE QUESTIONS OF SHIPPING (ON BASIS OF US NOTE
AND QUESTIONNAIRE PREPARED BY US AND SWEDEN) AND OF
"ARTISTES, ATHLETES AND OTHER PROFESSIONAL

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PEOPLE" (ON BASIS OF NOTE TO BE SUBMITTED BY FRANCE).

6. REPORTS BY GATT PANELS.

A. DISC. US REP (FOSTER) DECLINED TO COMMENT ON
GATT REPORT OR PROSPECTIVE USG REACTION OTHER THAN TO
NOTE REVISION OF DISC PROVISIONS IN 1976 TAX REFORM ACT
AND TO INDICATE THAT NEW ADMINISTRATION WILL BE EXAMIN-
ING VARIOUS OPTIONS. SECRETARIAT (HACKETT) NOTED DIFFI-
CULTY IN ASSESSING IMPACT ON EITHER JOBS OR EXPORTS AND
SUGGESTED THAT FORMER WAS ONLY REAL US CONCERN UNDER
EXISTING CONDITIONS AND THAT THERE ARE MORE EFFECTIVE
WAYS THAN DISC TO USE GOVERNMENT REVENUES TO CREATE
JOBS.

B. OTHER TAX PRACTICES. BELGIUM, FRANCE AND

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NETHERLANDS CRITICIZED GATT PANEL REPORTS ON THEIR TAX PRACTICES AND INDICATED THEY WOULD TELL GATT COUNCIL THAT RULINGS ARE UNACCEPTABLE (NETHERLANDS REP WAS PARTICULARLY VEHEMENT IN REJECTING POSSIBILITY OF CHANGING BASIC TAX PRINCIPLES OR OF LAYING NETHERLANDS OPEN TO RETALIATION). THEY ARGUED THAT IN BOTH LEGAL AND ECONOMIC SENSE THE ACT OF EXPORTING COULD NOT BE SAID TO EXTEND TO RESALE OF THE PRODUCT IN QUESTION BY THE FOREIGN PURCHASER (IMPORTER), AND THAT THIS PRINCIPLE APPLIED ALSO TO IMPORTERS WHO WERE AFFILIATES OF THE DOMESTIC EXPORTER (PROVIDED ARMS-LENGTH PRICING PREVAILS). FRG REP (MENEK) AGREED, NOTING SOME GERMAN PRACTICES WOULD BE JUDGED ADVERSELY IF GATT ADOPTED PRINCIPLES CONTAINED IN PANELS' REPORTS. HE SUGGESTED THREE GUIDELINES: (A) EXPORT RECEIPTS BE TAXABLE LIKE OTHER INCOME; (B) MEASURES TO ELIMINATE DOUBLE TAXATION BE ACCEPTABLE WHERE PERMANENT ESTABLISHMENTS EXIST; AND (C) INTERNATIONAL AGREEMENT BE REACHED ON DEFINITION OF PERMANENT ESTABLISHMENT AND CRITERIA FOR ALLOCATION OF INCOME. HE POINTED OUT THAT THE MODEL CONVENTION IS RELEVANT AND THAT FRG LEGISLATION ON TAX HAVENS EXTENDS TO SPECIAL ARRANGEMENTS FOR EXPORTS, NOTING THAT THE FRG IS THUS IN A BETTER POSITION THAN SOME OTHER COUNTRIES, AND OBSERVED THAT THE US HAS ALWAYS HAD SPECIAL RULES FOR EXPORTS (E.G., SUBPART F).

7. TAX DEVELOPMENTS. IN COURSE OF TOUR D'HORIZON US (RUDNEY) OUTLINED TAX/SPENDING PROPOSALS OF INCOMING ADMINISTRATION, EMPHASIZING THAT PROPOSALS ARE SUBJECT TO CHANGE AND REFINEMENT. US REP PROMISED TO KEEP CFA INFORMED OF DEVELOPMENTS IN FORMULATION OF NEW TAX REFORM PROPOSALS.

8. BORDER TAX ADJUSTMENTS. CFA NOTED THAT NUMBER OF COUNTRIES HAVE NOT YET SUBMITTED UPDATES OF TABLES IN 1968 REPORT.

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9. COLLECTIVE INVESTMENT INSTITUTIONS. CFA HEARD ORAL REPORT ON BEHALF OF CHAIRMAN OF AD HOC GROUP (WORK HAD BEEN POSTPONED BUT WILL RESUME AT FEBRUARY MEETING).

10. OTHER BUSINESS. UK REP (POLLARD) EXPRESSED

CONCERN AT IMBALANCE OF OFFICIAL RECORD OF SECOND MEETING OF UNESCO EXPERTS ON COPYRIGHTS WHICH OMITTS INDICATION OF DEVELOPED COUNTRY OPPOSITION TO THIRD MEETING (AND POSITION THAT EFFORTS SHOULD BE DEVOTED TO NEGOTIATING BILATERAL CONVENTIONS RATHER THAN TOTALLY UNFEASIBLE MULTILATERAL CONVENTION). CFA AGREED ON ABSURDITY OF ANOTHER MEETING, BUT MOST DELEGATES WERE RESIGNED TO ONE AND CONCURRED WITH US SUGGESTION THAT EMPHASIS SHOULD BE ON LAYING GROUNDWORK FOR ENSURING THAT THIRD MEETING WILL BE THE LAST.

11. NEXT MEETING WILL BEGIN AFTERNOON OF JULY 6 AND HOPEFULLY FINISH BY JULY 7.

KATZ

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Message Attributes

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